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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/684,016	10/10/2000	David K. Kovalic	16517.031	9497

28381 7590 11/24/2006

ARNOLD & PORTER LLP  
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555 TWELFTH STREET, N.W.  
WASHINGTON, DC 20004-1206

EXAMINER
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ART UNIT	PAPER NUMBER
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DATE MAILED: 11/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

14

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 09/684,016	<b>Applicant(s)</b> KOVALIC ET AL.	
	<b>Examiner</b> Shubo (Joe) Zhou	<b>Art Unit</b> 1631	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 01 July 2005 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☒ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☒ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet for detailed explanation.

Continuation of Items 1, 4 and 10:

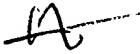
With regard to Items 1 and 4 above, specifically, the brief is deficient because, in the "Summary of Claimed Subject Matter" appearing on pages 3-4, the brief does not map the claimed invention to the independent claims. 37 CFR 41.37 (c)(v) states:

"A concise explanation of the subject matter defined in each of the independent claims involved in the appeal, which shall refer to the specification by page and line number, and to the drawing, if any, by reference characters. For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii) of this section, every means plus function and step plus function as permitted by 35 U.S.C. 112, sixth paragraph, must be identified and the structure, material, or acts described in the specification as corresponding to each claimed function must be set forth with reference to the specification by page and line number, and to the drawing, if any, by reference characters."

In the instant application, claims 11-14 involved in the appeal are all in independent forms. The brief should explain the subject matter defined in each of the independent claims by referring to the individual claim number. Correction by a substitute appeal brief is required.

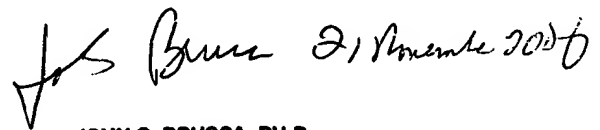
The Board of Patent Appeals and Interference recently returned an undocketed appeal to the examiner for the same reason in a unrelated application. The Board's "Order Returning Undocketed Appeal to Examiner" and reasons set forth therein can be viewed in the image file wrapper of the application in Public PAIR (application SN 10/083682).

It is regretted that this was not included in the earlier notices. Applicant is urged to contact the examiner should there be any questions regarding this notice prior to filing an amended brief.

Shubo (Joe) Zhou, Ph.D. 

Patent Examiner

571-272-0724



JOHN S. BRUSCA, PH.D  
PRIMARY EXAMINER